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10/087,809	03/05/2002	Cordell R. Ratzlaff	8360.1587-00	2977
826 7590 12/27/2006 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER CHOI, PETER H	
			ART UNIT 3623	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/27/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/087,809

Applicant(s)

RATZLAFF ET AL.

Examiner

Peter Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a **FINAL** office action upon examination of application number 10/087809. Claims 1-16 are pending in the application and have been examined on the merits discussed below.

Response to Amendment

2. Claims 1, 6, and 11-16 have been amended. The specification has been amended.
3. The drawing objection of Figure 2 raised under 37 CFR 1.84(p)(5) are withdrawn in view of the amended specification.

Response to Arguments

4. Applicant's arguments filed October 12, 2006 have been fully considered but they are not persuasive.

Applicant argues that Forbes does not disclose comparing two dates to determine a chronological relationship between the dates and then determining at least a start date based on the chronological relationship between the two dates.

The Examiner respectfully disagrees. The Examiner asserts that Forbes does indeed compare the first date and the second date to determine a chronological relationship. The Applicant has not set forth a special definition for "date"; thus, use of the term "date" is understood to be a reference to a commonly accepted definition for said term. Date is defined as "the time at which an event occurs" or "an appointment to meet at a specified time" (see Merriam Webster's Collegiate Dictionary, 10th Edition, reference 1-U). In Forbes, the user specifies and inputs the start time of the event, and either a duration or an end time to the event [Column 8, lines 30-33]. The chronological relationship between the start and end time of a single event is evident in that one time is the start time of said event, chronologically occurring prior to the end time of said event. Thus, when the user inputs the start time, the chronological relationship between two times has already been compared (the time that occurs first chronologically is the "start" date).

Applicant argues that there is no reason to determine the chronological relationship between the start and end times in Forbes, as the user simply inputs such information, whereas in the claimed invention, dates are received and compared to one another prior to setting the dates as a start date and end date.

The Examiner respectfully disagrees. The chronological relationship between the start and end time of a single event is evident in that one time is the start time of said

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event, chronologically occurring prior to the end time of said event. In Forbes, the determination of the chronological relationship between the start and end times is required in order for the user to input the start and end times of an event. Thus, when the user inputs the start time, the chronological relationship between two times has already been compared (the time that occurs first chronologically is the "start" date); in other words, the comparison has been made prior to the inputting of the start and end date by the user.

Applicant argues that Forbes does not disclose selecting a time that falls between the start and end times and setting a new start or end time depending on when the set start and end times were received.

The Examiner respectfully disagrees. As cited by the Examiner, and acknowledged by the Applicant, Forbes allows users to manipulate a timecell to reflect a schedule change. Forbes allows users to change the start and end times of scheduled events. Placement of the cursor in the left portion of the timebar indicates an intent to change the start time, placement in the right portion of the timebar indicates an intent to change the end time. A plus-minus cursor is used to indicate the timebar can have its start time changed, or a minus-plus cursor to indicate the timebar can have its end time changed [Column 8, lines 43-43, and 51-53]. For example, if an event had been scheduled to start at 9 AM and end at 11 AM, the user could modify the event to start at 10 AM, or end at 10 AM. If the left portion of the timebar is manipulated, then a new

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start time has been received and set. Similarly, if the right portion of a timebar is manipulated, then a new end time has been received and set. Thus, the Examiner asserts that Forbes allows users to select a time that falls between the start and end times and set a new start or end time (by manipulating the timebar to change the start or end time) depending on when the set start and end times were received.

Applicant argues that Forbes does not disclose that the monthly calendar is a graphical user interface that allows users to select dates and view the selected event range.

The Examiner respectfully disagrees. Forbes depicts the placement of an event in time by providing a display of a standard Gregorian calendar on which tasks previously scheduled on certain days are shown (i.e., a monthly calendar graphical interface) [Figure 7, Column 2, lines 63-54]. The determination of a time frame for scheduling an event is provided for the user by a display which depicts days on which events are scheduled (i.e., view selected event ranges) by boldface, larger font size, or other highlighting techniques. To identify the need and capability to schedule additional events, the user can display a table of possible events to be scheduled and select events from this table (i.e., select dates to schedule a selected event based on available timeframes). Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled [Column 8, lines 18-22 and 59-64]. Thus, the Examiner maintains the assertion that Forbes

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provides a monthly calendar graphical interface that allows users to select dates and view selected event ranges.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of the claims recite a graphical user interface, which is not within the statutory classes of invention. If these claims are directed towards an apparatus, there are no structural elements that would render the claims as an apparatus. The claimed interface views are not functional limitations, as they do not define a capability or purpose that is served by the recited view. Mere graphical representation of data is non-functional descriptive material, as it does not affect functionality of the claimed invention.

An interface is a graphical layout that designates the point of interaction between a computer and another system (such as a computer system) that handles data. While an interface is embodied by computer-readable instructions stored on a computer-

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readable storage medium, an interface does not comprise a computer-readable storage medium with computer-readable instructions. Therefore, it is unclear whether the claims are directed towards the view (i.e., the graphical layout and representation of data) of the interface, or software means presenting the interface views, or computer-executable code that yields the claimed interface views when executed on a computer readable medium.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 12-16 recite non-functional descriptive material per se. Non-functional descriptive material per se is an abstract idea that fails to produce a useful, concrete, or tangible result. Non-functional descriptive material is not made statutory even if in combination with a computer-readable medium so long as no useful, concrete or tangible result is produced. Based on the claim language (see the rejection of claims under 35 U.S.C. 112, second paragraph as explained above), it is unclear which statutory class the claimed graphical user interface belongs to because the claim

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limitations merely recite non-functional descriptive material (a graphical interface, a graphically representation of data) per se, which are non-statutory.

Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See *Arrhythmia*, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make the invention eligible for patenting. For example, a claim directed to a word processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the information stored may have some "real world" value. However, the mere fact that the claim may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is achieved under the practical application requirement. The claimed invention as a whole must produce a "useful, concrete and tangible" result to have a practical application.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable by Forbes et al. (U.S Patent #5,659,768).

As per claim 1, Forbes et al. teaches a method for designating dates in an interactive travel calendar comprising:

(a) providing an interface for users to select event ranges (**events to be scheduled are input by a user into the invention's data base using a variety of readily available input devices; manipulation of the information is begun by selecting data by pointing the device cursor to "select" timebars or times for an event**), each event range having a start date that chronologically precedes an end date (**user specifies and inputs the start time of the event and an end time to the event**) [Column 3, lines 50-63, Column 8, lines 30-33, Figures 1-8];

(b) receiving a signal designating a first date associated with an event (**user specifies and inputs the start time of the event and an end time to the event**) [Column 8, lines 30-33];

(c) receiving a signal designating a second date associated with an event (**user specifies and inputs the start time of the event and an end time to the event**) [Column 8, lines 30-33]; and

(f) presenting information reflecting the event range (**By specifying a timescale and a starting date for the display, the user would cause the invention to display a series of timebars uniquely identified as representing particular events over a scrollable grid with time increments over the calendar period**

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specified; Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled) [Column 8, lines 34-38, 61-64, Figures 1-8].

Forbes et al. does not explicitly

(d) compare the first date and the second date to determine a chronological relationship between the first date and the second date;

(e) determine a start date for an event range based upon the chronological relationship between the first date and the second date, with the start date being the date earlier chronologically among the first and second date and the end date being the date chronologically later among the first and second date

However, in Forbes, the user specifies and inputs the start time of the event, and either a duration or an end time to the event [Column 8, lines 30-33]. The chronological relationship between the start and end time of a single event is evident in that one time is the start time of said event, chronologically occurring prior to the end time of said event. Thus, when the user inputs the start time, the chronological relationship between two times has already been compared, and the time that is determined to have occurred first chronologically is the "start" date.

As per claim 2, Forbes et al. teaches the method of claim 1, further comprising:

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- (a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-41, Column 8, lines 41-43]; and
- (b) setting the new date as a new end date based on a determination that the new date chronologically succeeds the end date for the event range to form a new event range **(placement of the pointer on the right end of a timebar communicates the intent to change the end time)** [Column 5, lines 43-45, Column 8, lines 44-46].

As per claim 3, Forbes et al. teaches the method of claim 1, further comprising:

- (a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-41, Column 8, lines 41-43]; and
- (b) setting the new date as a new start date if the new date chronologically precedes the start date for the event range to form a new event range **(placement of the pointer on the left end of a timebar communicates the intent to change the start time)** [Column 5, lines 42-43, Column 8, lines 43-44].

As per claim 4, Forbes et al. teaches the method of claim 1, further comprising:

- (a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-46, Column 8, lines 41-43]; and

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(b) setting the new date as a new end date if the new date falls chronologically within the event range, and the start date was selected before the end date, to form a new event range **(a user can textually manipulate the timecells to reflect schedule adjustments)** [Column 5, lines 40-46, Column 6, lines 66-67].

As per claim 5, Forbes et al. teaches the method of claim 1, further comprising:

(a) receiving a signal designating a new date associated with the event **(the user communicates the user's intention to manipulate the timebar by placement of the pointer on the timebar)** [Column 5, lines 40-41, Column 8, lines 41-43]; and

(b) setting the new date as a new start date based on a determination that the new date falls chronologically within the event range, and the end date was selected before the start date, to form a new event range **(a user can textually manipulate the timecells to reflect schedule adjustments)** [Column 5, lines 40-46, Column 6, lines 66-67].

Claims 6-10 recites limitations already addressed by the rejection of claims 1-5 above; therefore, the same rejection applies.

As per claim 11, Forbes et al. teaches a method for specifying an event range, comprising:

(a) setting a first date and a second date as a start date and an end date for an event range (**user specifies and inputs the start time of the event and an end time to the event**) [Column 8, lines 30-33];

(b) presenting information reflecting the event range (**By specifying a timescale and a starting date for the display, the user would cause the invention to display a series of timebars uniquely identified as representing particular events over a scrollable grid with time increments over the calendar period specified; Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled**) [Column 8, lines 34-38, 61-64, Figures 1-8]; and

(c) enabling a user to modify the presented information by selecting a third date (**A user can textually manipulate the timecells to reflect schedule adjustments**), wherein the third date is set as a new start date for the event range when the third date falls within the event range (**Placement of the pointer on the left end of a timebar communicates the intent to change the start time**), and the set start date was received before the set end date, and wherein the third date is set as a new end date for the event range when the third date falls within the event range and the set end date was received before the set start date (**Placement of the pointer on the right end of a timebar communicates the intent to change the end time**) [Column 5, lines 42-45, Column 6, lines 66-67 Column 8, lines 43-46].

Forbes does not explicitly set a start and end date for an event based on a chronological relationship between the first date and the second date. However, the chronological relationship between the start and end time of a single event is evident in that one time is the start time of said event, chronologically occurring prior to the end time of said event. In Forbes, the determination of the chronological relationship between the start and end times is required in order for the user to input the start and end times of an event. Thus, when the user inputs the start time, the chronological relationship between two times has already been compared (the time that occurs first chronologically is the "start" date); in other words, the comparison has been made prior to the inputting of the start and end date by the user.

As per claim 12, Forbes et al. teaches a graphical user interface for selecting dates in an interactive calendar in a data processing system, the interface comprising a computer-readable storage medium having computer-readable instructions stored therein, the computer-readable instructions, when executed, configured to generate **(Forbes is run on any standard "IBM" ® compatible personal computer having the various generation of Intel® microprocessors and cathode ray tube, liquid crystal, or other type of display) [Column 3, lines 39-45, 53-54]:**

(a) an initial view including a monthly calendar interface **(display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled)** for users to select event ranges, each event range having a start date that chronologically precedes an end date,

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wherein upon receiving a signal designating a first date and a second date associated with an event, the first date or the second date is designated as a start date for an event range based upon a chronological relationship between the first date and the second date, with the one of the first and second date that is chronologically before the other set as the start date, and the other date set as the end date **(user specifies and inputs the start time of the event and an end time to the event)** [Column 8, lines 30-33, 61-63]; and

(b) a new view including a monthly calendar interface presenting information reflecting the event range **(When the pointing device is dragged over the timebar a gray outline of the timebar movies in proportion to the pointing device movement. As the timebar is moved, the table is updated for each time increment of motion. If the timebar is being repositioned, both the start and end times are highlighted and updated continually with each minute of motion. If the timebar is being shortened or lengthened, only the start or the end time is highlighted and updated continually; By specifying a timescale and a starting date for the display, the user would cause the invention to display a series of timebars uniquely identified as representing particular events over a scrollable grid with time increments over the calendar period specified; Display of the provided Gregorian calendar graphically depicts scheduling timeframes as well as identifies days on which events are already scheduled)** [Column 7, lines 10-19, Column 8, lines 1-8, 34-38, 61-64, Figures 1-8].

Claims 13-16 recite limitations already addressed by the rejection of claims 2-5 (setting new start or end dates for an event) and 12 (monthly calendar interface allowing users to specify event ranges and present information reflecting the event range) above; therefore, the same rejection applies.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PC

December 14, 2006


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